



RE: WI Phosphorus Criteria Implementation

Betsy Lawton to: Stephen Jann, Kevin Pierard, George Azevedo

01/07/2013 03:12 PM

1 attachment



7th FD Final.pdf

Hi All –

Just wanted to inform you that DNR issued the Domtar permit, which I had forwarded to you in June of 2012. Unfortunately DNR still did not assess the need for phosphorus WQBELs to protect the downstream impaired waters of Petenwell and Castle Rock, which are by my rough calculations a maximum of 10 miles downstream from Domtar's discharge location. DNR indicates that the its guidance "currently does not contain procedures for calculating such limits short of a TMDL...."

In addition it appears that despite being able to meet the .63 mg/L monthly limitation (average phosphorus effluent is .54 mg/L), the compliance schedule authorizes 7 years to meet the limit, unless the permittee, outside the public comment process, determines that it can comply with that limit using operational improvements, source reduction measures or minor modifications.

Finally, it appears that the revised compliance schedule provides an additional 6 month for the facility to begin construction (previous schedules required initiation of construction 1 day after permit expiration, new compliance schedules doesn't require initiation of construction until 6 months after permit expiration) without any justification for the need for additional time.

Thanks,
Betsy

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From: Betsy Lawton
Sent: Thursday, June 07, 2012 2:34 PM
To: 'jann.stephen@epa.gov'; Kevin Pierard
(Pierard.Kevin@epamail.epa.gov); 'azevedo.george@epa.gov'
Subject: WI Phosphorus Criteria Implementation

Hi Kevin, Steve and George –

I wanted to briefly touch base regarding implementation of the phosphorus water quality criteria in Wisconsin.

As I am preparing to meet with a group of individuals and business owners concerned about the phosphorus impairments in the Petenwell and Castle Rock Lakes, I was reviewing the draft WPDES permit for the Domtar facility in Nekoosa, and wanted to highlight a few concerns related to the phosphorus terms in that draft permit. MEA's comments on the proposed permit are attached, but I wanted to mention a few additional issues:

- It does not appear that DNR performed a Reasonable Potential Analysis to determine whether the Domtar discharge causes or contributes to the downstream phosphorus impairments in the Petenwell and Castle Rock lakes, and set appropriate WQBELs to protect these severely impaired downstream waters. Both state and federal law require this analysis and necessary limits – and the analysis is particularly important where, as here, the downstream waters are more sensitive to phosphorus pollution than the direct receiving water and the applicable phosphorus criteria are lower than the criteria applicable at the end of the dischargers pipe. We understand from the attached documents (P WLA WI R South.pdf) that “there are ongoing monitoring and modeling efforts in the Wisconsin River Basin which will result in water quality based effluent limitations under s NR 217.13(1)(b) and/or a TMDL within the next five years.” However, WDNR must include WQBELs in the final permit for Domtar if the

discharger "has the reasonable potential to cause or contribute to an exceedance of the criteria in s. NR 102.06 in either the receiving water or downstream waters" (NR 217.12). DNR must not wait until the next permit issuance to make this determination and set appropriate phosphorus WQBELs, - which could expose the already impaired waterway to unacceptable inputs of phosphorus for the next 14 years (assuming DNR provides a 9 year compliance schedule during the next permit).

- The compliance schedule included in the proposed permit states that final dates for compliance are "for informational purposes only" and do not take effect until the next permit reissuance. We remain concerned that if WDNR is not able to reissue the permit in 5 years, the proposed compliance schedule does not require final compliance with the WQBEL.
- According to the fact sheet, Domtar's average monthly discharge is .54 mg/L, yet DNR is proposing a 9 year compliance schedule to meet the proposed .63 mg/L monthly phosphorus WQBEL (only one sample in the last year has exceeded the proposed limit). A compliance schedule to meet a limit the facility is already capable of meeting is not appropriate. (We also remain concerned that a 9 year compliance schedule is not necessary to meet any of the proposed WQBELs – see attached comments for more details)
- DNR did not make the requisite showing that monthly and weekly average limits are impracticable prior to establishing yearly annual limits.
- It is unclear, why DNR, despite data indicating the upstream concentration of Phosphorus exceeds the applicable .1 mg/L phosphorus criteria, based WQBEL calculations on an upstream phosphorus concentration of .095 mg/L

I have also attached a letter MEA and ELPC recently sent to WDNR (MEA ELPC Phosphorus Implementation.pdf), that highlights some of the more recent general concerns we have identified in reviewing draft WPDES permits.

Thanks much,
Betsy

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